

Seed<sup>IP</sup>

## Facsimile Transmission

April 6, 2005

To: Ruth A. Davis, Patent Examiner

Fax No: 571-273-0915

Phone No:

Re: U.S. Patent Application No. 09/940,682

Your Ref:

Seed IP Ref: 150026.464

No. of Pages: 5 (including this page)

If you do not receive all pages, please call John T. Oliver at (206) 622-4900 or fax our office.

address 701 Fifth Avenue  
Suite 6300  
Seattle, WA 98104  
telephone 206.622.4900  
facsimile 206.682.6031  
website SeedIP.com

☐ Urgent☐ For Review☒ Please Confirm  
Receipt☐ Please Reply  
ASAP

## Comments:

PLEASE DELIVER IMMEDIATELY TO:

EXAMINER: RUTH A. DAVIS  
ART UNIT: 1651

## Transmission Information:

Date:

Time:

By:

## CONFIDENTIALITY NOTICE:

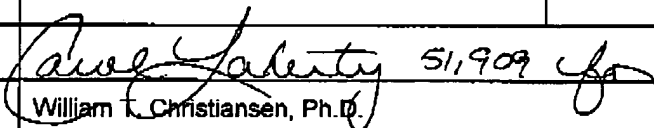
The information contained in this facsimile message is legally privileged and/or confidential information intended only for the use of the addressee named above. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this facsimile or its content is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile message to us by mail or destroy it without making a copy. Thank you.

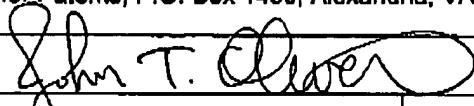
tj

VIA FACSIMILE

<b>TRANSMITTAL FORM</b> <i>(To be used for all correspondence after initial filing)</i>	Application Number	09/940,682
	Filing Date	August 27, 2001
	First Named Inventor	David E. Townsend
	Art Unit	1651
	Examiner Name	Ruth A. Davis
	Attorney Docket No.	150026.464

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form (+1) <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement; Form PTO-1449 <input type="checkbox"/> Cited References <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts under 37 C.F.R. 1.52 or 1.53 <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Declaration <input type="checkbox"/> Statement under 37 CFR 3.73(b) <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC ( <i>Appeal Notice, Brief, Reply Brief</i> ) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Other Enclosure(s) ( <i>please identify below</i> ): _____ _____ _____ _____
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Seed Intellectual Property Law Group PLLC		Customer Number <b>00500</b>
Signature			
Printed Name	William T. Christiansen, Ph.D.		
Date	April 6, 2005	Reg. No.	44,614


CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being <b>facsimile transmitted</b> to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Signature		
Typed or printed name	John T. Olliver	Date: April 6, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. C:\N\PortB\Manage\JOHNOL578911\_1.00C

VIA FACSIMILE

Effective on 12/09/2004. Fees pursuant to the Consolidated Appropriations Act. 2005 (H.R. 4618). <b>FEE TRANSMITTAL</b> <b>for FY 2005</b>		<b>Complete if Known</b>	
		Application Number	09/940,682
		Filing Date	August 27, 2001
		First Named Inventor	David E. Townsend
		Examiner Name	Ruth A. Davis
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Art Unit	1651
TOTAL AMOUNT OF PAYMENT	(\$) <b>65</b>	Attorney Docket No.	150026.464
METHOD OF PAYMENT (check all that apply)			
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other (please identify): _____ <input checked="" type="checkbox"/> Deposit Account    Deposit Account Number: <u>19-1090</u> Deposit Account Name: <u>Seed IP Law Group PLLC</u> For the above-identified deposit account, the Director is hereby authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee <input type="checkbox"/> Charge any additional fee(s) or underpayments <input checked="" type="checkbox"/> Charge any underpayments or credit any overpayments of fee(s) under 37 CFR 1.16 and 1.17 Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
<b>FEE CALCULATION</b>			
<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>			
FILING FEES		SEARCH FEES	
Small Entity		Small Entity	
Application Type	Fee (\$)	Fee (\$)	Fee (\$)
Utility	300	150	500
Design	200	100	100
Provisional	200	100	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	250	200
Design	200	50	130
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility	300	100	100
Design	200	65	65
Provisional	200	0	0
		Small Entity	Small Entity
		Fee (\$)	Fee (\$)
Utility			

VIA FACSIMILE

Effective on 12/05/2004. Fees pursuant to the Consolidated Appropriations Act. 2005 (H.R. 4818). <b style="font-size: 1.2em;">FEE TRANSMITTAL</b> <b style="font-size: 1.2em;">for FY 2005</b>				<b>Complete if Known</b>			
				Application Number		09/940,682	
				Filing Date		August 27, 2001	
				First Named Inventor		David E. Townsend	
				Examiner Name		Ruth A. Davis	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27				Art Unit		1651	
TOTAL AMOUNT OF PAYMENT (\$)				65		Attorney Docket No.	
150026.464							
METHOD OF PAYMENT (check all that apply)							
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other (please identify): _____ <input checked="" type="checkbox"/> Deposit Account    Deposit Account Number: 19-1090    Deposit Account Name: Seed IP Law Group PLLC For the above-identified deposit account, the Director is hereby authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee <input type="checkbox"/> Charge any additional fee(s) or underpayments <input checked="" type="checkbox"/> Charge any underpayments or credit any overpayments of fee(s) under 37 CFR 1.16 and 1.17 Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.							
FEE CALCULATION							
1. BASIC FILING, SEARCH, AND EXAMINATION FEES							
		FILING FEES		SEARCH FEES		EXAMINATION FEES	
		Small Entity		Small Entity		Small Entity	
<u>Application Type</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Provisional	200	100	0	0	0	0	_____
2. EXCESS CLAIM FEES							
<u>Fee Description</u>						<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
<u>Total Claims</u>		<u>Extra Claims</u>		<u>Fee (\$)</u>		<u>Fee Paid (\$)</u>	
_____ -20 or HP = _____		X		= _____		_____	
HP = highest number of total claims paid for, if greater than 20							
<u>Indep. Claims</u>		<u>Extra Claims</u>		<u>Fee (\$)</u>		<u>Fee Paid (\$)</u>	
_____ -3 or HP = _____		X		= _____		_____	
HP = highest number of independent claims paid for, if greater than 3							
3. APPLICATION SIZE FEE							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)) the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<u>Total Sheets</u>		<u>Extra Sheets</u>		<u>Number of each additional 50 or fraction thereof</u>		<u>Fee (\$)</u>	
_____ -100 = _____		/50 = _____		(round up to a whole number)		x _____	
						<u>Fee Paid (\$)</u>	
4. OTHER FEE(S)						<u>Fees Paid (\$)</u>	
Non-English Specification, \$130 fee (no small entity discount)						_____	
Other (e.g., late filing surcharge): _____						_____	
<u>Terminal Disclaimer Fee</u>						65	
SUBMITTED BY							
Signature				Registration No. (Attorney/Agent)		44,614	
Name (Print/Type)		William T. Christiansen, Ph.D.		Telephone		206-622-4900	
				Date		April 6, 2005	

578906\_1.DOC

PTO/SB/26 (09-04)

Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
150026.484

In re Application of: David E. Townsend

Application No. 09/940,682

Filed: August 27, 2001

**For: COMPOSITIONS AND METHODS FOR DETECTING TARGET MICROORGANISMS IN A  
SAMPLE**

The owner\*, BioControl Systems, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,387,650 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;  
is held unenforceable;  
is found invalid by a court of competent jurisdiction;  
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;  
has all claims canceled by a reexamination certificate;  
is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Registration No. 44,614

*Carol Yeherty* 51,909  
Signature *for*

04/06/05  
Date

William T. Christiansen, Ph.D.

Typed or printed name

(206) 622-4900

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/98 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480. C:\WP\PatM\Manage\JCHNO\576003\_1.DOC